

ASSEMBLY BILL

No. 3079

Introduced by Committee on Judiciary (Corbett (Chair), Harman (Vice Chair), Hancock, Jackson, Laird, Lieber, Longville, Montanez, and Steinberg)

March 11, 2004

An act to amend Sections 71622 and 72190 of, and to repeal Section 72407 of, the Government Code, relating to subordinate judicial officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 3079, as introduced, Committee on Judiciary. Subordinate judicial officers: postretirement employment.

Existing law authorizes each trial court to establish and appoint subordinate judicial officers. Existing law specifically provides that a retired commissioner and, in certain counties, a retired traffic referee may be assigned to serve as a commissioner or traffic referee and shall be paid the difference between his or her retirement allowance and the full compensation of a commissioner or traffic referee, without reinstatement as a member of the retirement system.

This bill would authorize any retired subordinate judicial officer to be assigned to perform subordinate judicial duties for not more than 85% of the compensation of a retired judge and subject to any limits imposed by his or her retirement system on postretirement service.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 71622 of the Government Code is amended to read:

71622. (a) Each trial court may establish and may appoint any subordinate judicial officers that are deemed necessary for the performance of subordinate judicial duties, as authorized by law to be performed by subordinate judicial officers. However, the number and type of subordinate judicial officers in a trial court shall be subject to approval by the Judicial Council. Subordinate judicial officers shall serve at the pleasure of the trial court.

(b) The appointment or termination of a subordinate judicial officer shall be made by order of the presiding judge or another judge or a committee to whom appointment or termination authority is delegated by the court, entered in the minutes of the court.

(c) The Judicial Council shall promulgate rules establishing the minimum qualifications and training requirements for subordinate judicial officers.

(d) The presiding judge of a superior court may cross-assign one type of subordinate judicial officer to exercise all the powers and perform all the duties authorized by law to be performed by another type of subordinate judicial officer, but only if the person cross-assigned satisfies the minimum qualifications and training requirements for the new assignment established by the Judicial Council pursuant to subdivision (c).

(e) The superior courts of two or more counties may appoint the same person as court commissioner.

(f) As of the implementation date of this chapter, all persons who were authorized to serve as subordinate judicial officers pursuant to other provisions of law shall be authorized by this section to serve as subordinate judicial officers at their existing salary rate, which may be a percentage of the salary of a judicial officer.

(g) *A subordinate judicial officer who has been duly appointed and has thereafter been retired from service may be assigned by a presiding judge to perform subordinate judicial duties consistent with subdivision (a). The retired subordinate judicial officer shall be subject to the limits, if any, on postretirement service prescribed by the Public Employees' Retirement System, the county*

defined-benefit retirement system, as defined in subdivision (f) of Section 71624, or any other defined-benefit retirement plan from which the retired officer is receiving benefits. The retired subordinate judicial officer shall be compensated by the assigning court at a rate not to exceed 85 percent of the compensation of a retired judge assigned to a superior court.

SEC. 2. Section 72190 of the Government Code is amended to read:

72190. Within the jurisdiction of the court and under the direction of the judges, commissioners shall exercise all the powers and perform all of the duties prescribed by law. At the direction of the judges, commissioners may have the same jurisdiction and exercise the same powers and duties as the judges of the court with respect to any infraction or small claims action. They shall be ex officio deputy clerks. ~~A commissioner who has been duly appointed and has thereafter been retired from service, may be assigned by the presiding judge to serve as a court commissioner of the court for any periods of time as he or she is needed for the prompt and efficient discharge of the business of that court. While serving, he or she shall be paid the full compensation of a court commissioner, payable as follows: he or she shall continue to receive his or her retirement allowance, and in addition the court shall pay him or her the amount equal to the difference between the retirement allowance and full compensation. That employment shall not operate to reinstate him or her as a member of the retirement system or to terminate or suspend his or her retirement rights or allowance, and no deductions shall be made from his or her compensation as contributions to the retirement system.~~

SEC. 3. Section 72407 of the Government Code is repealed.

~~72407. Notwithstanding any other provision of law, a traffic referee in any county with a population of 3,000,000 or more who has been duly appointed and has thereafter been retired for service, may be assigned by the presiding judge of a court to serve as a traffic referee of the court for such periods as needed for the prompt and efficient discharge of the business of that court. While so serving, the traffic referee shall be paid the full compensation of a traffic referee, payable as follows: The traffic referee shall continue to receive a retirement allowance, and in addition the amount equal to the difference between such retirement allowance~~

1 ~~and such full compensation. Such employment shall not operate to~~
2 ~~reinstate the traffic referee as a member of the retirement system~~
3 ~~or to terminate or suspend the traffic referee's retirement rights or~~
4 ~~allowance, and no deductions shall be made from the traffic~~
5 ~~referee's compensation as contributions to the retirement system.~~

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